



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

February 25, 2003

John D. Webb, Chief
North Region Environmental Services
Caltrans District #3
2389 Gateway Oaks Drive
Sacramento, CA 95833

Subject: State Route 65 Lincoln Bypass Project

Dear Mr. Webb:

On 15 January 2003, we wrote you to memorialize our interagency agreements made during the meeting of January 13th, and we are writing now to advance the decision-making process surrounding the proposed Lincoln Bypass project.

We are concerned that Caltrans appears to be behind schedule in producing the workplan on evaluating indirect and cumulative impacts to aquatic resources from the proposed project. As noted in our January 15th letter to you, Caltrans agreed on January 13th to draft this workplan for review by EPA and the Sacramento Corps District, and to begin the preparation of an evaluation of indirect and cumulative impacts. Below, please find suggestions for how Caltrans might expedite this process.

Before providing these suggestions, I want to acknowledge your February 4th letter to EPA which discusses the practicability of the "A alignments" for this proposed bypass. Pursuant to the NEPA/404 process for planning and permitting transportation projects, we are working with the Sacramento Corps District in consideration of your request for LEDPA concurrence. However, we are very disappointed that Caltrans omitted critical information about the "A" alignments during the public review process for the proposed project. I am attaching a chronology of events associated with this project (Attachment I). Caltrans did not disclose important constraints emerging within the "A corridor" in a timely manner, and this has resulted in delays in the NEPA/404 process. Given the information provided by Caltrans on January 27, 2003, we agreed not to press for further studies of the "A" alignments, and therefore Caltrans' pending analysis of indirect and cumulative impacts should focus on the "D alignments." This analysis is required under the implementing regulations for the Clean Water Act. As you know, we first informed Caltrans of the need for this analysis over a year ago in February 2002.

In an effort to help you with your workplan, on January 16th and February 13th, EPA sent to Caltrans detailed technical references, methodological tools, and suggestions for measuring and managing secondary and cumulative effects. Perhaps the most expeditious means for Caltrans to complete this analysis would be for Caltrans headquarters to use their existing contract with U.C.

Davis to tailor the available SacMePlan3 model to the characteristics of the proposed project (please see our list of references from February 13th). This approach would probably negate the need for Caltrans to prepare the workplan offered on January 13th. If you would like EPA's assistance in facilitating a collaboration with U.C. Davis, please let us know.

While the use of Caltrans' contract with U.C. Davis might be the most expeditious means for completing the analysis of indirect and cumulative impacts, we recognize Caltrans might prefer to adhere to the January 13th agreement, and to prepare a workplan. To further assist Caltrans with this task, we have prepared an outline for such a workplan (see Attachment II).

To expedite the interagency planning and permitting process, we propose an interagency meeting within the next thirty days to finalize preparation of a workplan. This meeting should involve Caltrans, the Sacramento Corps District, and FHWA. Please call Tim Vendlinski in our Wetlands Regulatory Office at (415) 972-3464 to arrange this meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Kemmerer', with a long horizontal flourish extending to the right.

John Kemmerer
Associate Director
Water Division

cc:

Tom Cavanaugh, Sacramento Corps District
Jan Knight, U.S. Fish and Wildlife Service
Sue McConnell, Central Valley Regional Water Quality Control Board
Richard Robinson, the Office of Congressman Doolittle

ATTACHMENT I

RECENT CHRONOLOGY OF THE NEPA/404 PROCESS FOR LINCOLN-BYPASS

DEC 2001: Caltrans identifies D13 North as Lincoln Bypass "preferred alternative" in DEIS.

8 FEB 2002: EPA comments on the DEIS and raises concerns about the adverse effects of the D13N alignment in terms of habitat fragmentation, degradation of wetlands, and indirect and cumulative effects. EPA states that an analysis of indirect and cumulative effects is missing and needs to be prepared. EPA also states that D13N may not be the LEDPA, and Caltrans should not rule out the "AC" alignments as the LEDPA.

AUG 29th: Caltrans and EPA have an initial meeting on the LEDPA. Caltrans agrees to prepare a revised Alternatives Analysis prior to requesting concurrence on LEDPA.

SEPT 16th: Rep. Doolittle calls the Regional Administrator and expresses concerns that "EPA's preferred alternative" would destroy occupied homes. EPA responds and references the available information on the alternatives provided by Caltrans: the D13N alignment would impact 10 homes, and AAC2 alignment would impact 20 homes.

OCT 7th: EPA receives from Caltrans the revised Alternatives Analysis (dated Sept 24, 2002), a request for LEDPA concurrence on D13N (dated Sept 30, 2002), and information on the General Plan for the City of Lincoln. The deadline for LEDPA concurrence is set for NOV 18th.

OCT 31st: In a meeting among Caltrans, EPA, the City of Lincoln, and the County of Placer, the project proponents assert for the first time that the A alignment will impact 400+ homes. EPA asks whether these homes are planned or already constructed. Caltrans agrees to revise their request for LEDPA concurrence to answer EPA questions about the status of residential development.

DEC 20th: Caltrans provides additional information on planned residential development. Key points: (i) Although the primary residential development, Foscett Ranch, is not built, Caltrans is considering the 400+ future residences as impacted; (ii) zoning decisions on the land are 3-6 months away.

DEC 2002/JAN 2003: The deadline for LEDPA concurrence is revised and set for JAN 10th.

JAN 8th: EPA prepares a non-concurrence letter on Caltrans' choice of D13N as the LEDPA. EPA calls Caltrans to alert them to the forthcoming letter, and explains that while the "D" alignments would have less direct adverse effects on aquatic resources than the "A" alignments (13.6 acres of jurisdictional waters versus 15.4 acres), it appears that they would have much greater adverse secondary and cumulative effects. This was based on our understanding of 20 impacted existing homes in the "A" alignment v. 10 impacted existing homes in the "D" alignment, and that other planned development was dependent on future zoning decisions. Caltrans asks EPA not to send the letter, and extends the deadline for LEDPA concurrence until JAN 24th.

JAN 13th: The regulatory agencies and the project proponents meet in Sacramento. The City announces the agencies have been using outdated maps and inaccurate land-use data and claims that an unspecified number of fixed houses have been already constructed within the "A corridor." Caltrans agrees to: (i) submit to the regulatory agencies factual information about the potential effects of the "A alignments" on structures within the corridor; and (ii) prepare a workplan to evaluate secondary and cumulative effects of the project.

JAN 15th: EPA sends a letter to Caltrans to memorialize the agreements from JAN 13th, including Caltrans' agreement to prepare a workplan to evaluate secondary and cumulative impacts.

JAN 16th: In an effort to help Caltrans with their workplan, EPA e-mails to Caltrans the first installment of a list of technical references, methodological tools, and suggestions for measuring and managing secondary and cumulative effects.

JAN 27th: Caltrans e-mails to EPA a numerical table quantifying the number of homes that would be directly and indirectly affected by the "A alignments". They disclose that alignments AAC2 and ASC1 would directly affect 56 and 73 homes, respectively. This information represents a significant change in the number of existing homes. Until now, information provided by Caltrans had led the regulatory agencies to believe that the "A alignments" were reasonable and practicable.

JAN 28th: The Regional Administrator meets with Rep. Doolittle, offers to remove the "A alignments" from further consideration (in light of the new information submitted by Caltrans).

FEB 10th: EPA receives from Caltrans a letter (dated FEB 4th) requesting LEDPA concurrence on D13N. Their letter includes a written justification (Attachment A) of why the "A alignments" are impracticable based on costs, logistics, and socio-economic impacts.

FEB 13th: EPA e-mails to Caltrans the second installment of a list of technical references, methodological tools, and suggestions for measuring and managing secondary and cumulative effects.

ATTACHMENT II

WORK PLAN FOR IMPACT ANALYSIS

1. Identify Evaluation Tools: Based on the tools referenced in this letter and on any other methods identified by Caltrans, the transportation agencies must prepare a proposed methodology, scope of work scope, or outline describing an approach for addressing secondary and cumulative effects of the “D alignments” on aquatic resources.

2. Clarify Project Design: Clarify the location of interchanges and intersections for each of the four variations of the “D alignments” and justify the inclusion of each interchange and intersection for meeting the project purpose. It is not clear why a project proposed to relieve traffic congestion within the City of Lincoln requires multiple interchanges and intersections.

3. Designing a LEDPA: Explain how Caltrans proposes to distinguish among the four D alignments to identify a LEDPA.

4. Proper Documentation for the Administrative Record: Given the Draft EIS and the formal request for concurrence on the LEDPA both treated the “A alignments” as reasonable and practicable, Caltrans and FHWA should: (a) clarify the change in their position; (b) provide the clear basis for eliminating the A alignments from further consideration; (c) prepare an acceptable determination that newly furnished information renders the “A alignments” as unreasonable (per NEPA) and impracticable (per CWA Section 404); and (d) Explain how the decision to eliminate the “A alignments” will be treated in the Final EIS. Does the information on adverse effects on housing constitute "significant new information", and would it be appropriate to prepare a Supplemental Draft EIS?

5. Interagency Collaboration: Identify areas where EPA can provide technical assistance or guidance.